S.B. Civil Writ Petition No.7773/2007
Smt. Durga Kumari
vs
ADJ No.1, Jodhpur & Ors.

Date of order : 10.12.2007.

HON'BLE MR. PRAKASH TATIA, J.

Mr. KK Shah, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner-defendant has challenged part of the order dated 16th Oct., 2007 passed by the trial court by which the trial court allowed the petitioner's-defendant's application raising objection about taking on record the documents produced by the plaintiffs on the day when issue was framed i.e., on 3rd May, 2007. The defendant-petitioner aggrieved because of the reason that the trial court observed that even when court has held that the documents, which were produced by the plaintiffs on the date when the issues were framed by the trial court are not taken on record and this order will not be prejudicial to the petitioner's any application filed under Order 7 Rule 14(3) CPC.

According to learned counsel for the petitioner in view of the specific provision under the Civil Procedure Code, the plaintiffs are required to produce all the documents alongwith the plaint and also submit the list of the documents upon which the

plaintiffs want to rely upon. When the plaintiffs failed to produce the original document also then he cannot be permitted to produce the document and in this case, admittedly, plaintiffs did not submit the document alongwith the plaint and submitted that document on the date when issues were framed by the trial court. The defendant's objection was accepted by the trial court but the observation of the trial court that it will be without prejudice to the plaintiffs' right under Order 7 Rule 14(3) CPC, then the plaintiffs will get this right by virtue of this order and may produce the document under Order 7 rule 14(3) CPC.

The writ petition appears to be absolutely misconceived in view of the fact that the Order 7 Rule 14(3) CPC applies only when the documents have not been produced in accordance with law at the relevant time and, thereafter, only a party can seek permission of the court to produce the document after expiry of that period, which is mentioned in Order 13 Rule 1 CPC as well as in Order 7 Rule 14(1) CPC.

In view of the above reasons, I do not find any merit force in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-